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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Coombs, et al.)	I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on <u>2-28-05</u> (Date) <u>R L</u> Russell M. Jeide, Reg. No. 54,198
Appl. No.	: 10/792,291)	
Filed	: March 2, 2004)	
For	: METHODS AND APPARATUS FOR USE IN DETECTION AND QUANTITATION OF VARIOUS CELL TYPES AND USE OF OPTICAL BIO-DISC FOR PERFORMING SAME)	
Examiner	: Unknown)	
Group Art Unit	: 1645)	
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)	

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. 1.47(A)

Mail Stop Missing Parts
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Request is in response to the Decision Refusing Status under 37 C.F.R. 1.47(a), dated December 29, 2004.

Appl. No. : 10/792,291
Filed : March 2, 2004

STATEMENTS OF FACTS

1. On March 2, 2004, the above-identified patent application was filed without an executed oath or declaration.
2. On May 25, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the oath or declaration was missing, and requiring a surcharge for its late filing.
3. On October 22, 2004, petitioner submitted a petition with an executed Declaration executed by two joint inventors, specifically, James Coombs and Brigitte Phan. The Declaration that was executed by each of Mr. Coombs and Ms. Phan also listed John Gordon and Joseph Urcia as inventors and included a signature block for Messrs. Gordon and Urcia. However, the signature block for Mr. Urcia is on the last page of the Declaration (page 3) and was inadvertently omitted from the Declaration included with the Petition filed on October 22, 2004. Attached hereto as Exhibit A is a true and correct copy of the Declaration that was sent to each of the four listed inventors.
4. Attached as Exhibit B are complete copies of the declarations that were signed by Brigitte C. Phan and James H. Coombs, each listing Messrs. Urcia and Gordon as inventors.

DISCUSSION

Attached hereto as Exhibit C is a Declaration of Russell Jeide in Support of Request For Reconsideration Of Petition Under 37 C.F.R. 1.47(a).

In view of the above-listed facts that are confirmed in the attached Declaration of Russell Jeide, Applicant respectfully submits that Mr. Urcia was properly listed on the Declaration executed by Mr. Coombs and Ms. Phan and, thus, the Petition filed on November 1, 2004 complies with 37 C.F.R. 1.63. Accordingly, Petitioner requests reconsideration of the October 22, 2004 Petition.

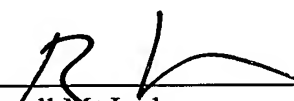
Appl. No. : 10/792,291
Filed : March 2, 2004

If there are any obstacles to a prompt approval of this petition, the Patent and Trademark Office is invited to call the undersigned attorney.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 2-28-05

By: 
Russell M. Jeide
Registration No. 54,198
Attorney of Record
Customer No. 20,995
(619) 235-8550

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022805

DECLARATION - USA PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, mailing address and citizenship are as stated below next to my name;

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled METHODS AND APPARATUS FOR USE IN DETECTION AND QUANTITATION OF VARIOUS CELL TYPES AND USE OF OPTICAL BIO-DISC FOR PERFORMING SAME; the specification of which was filed on March 2, 2004, as Application Serial No. 10/792,291.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above;

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56;

I hereby claim the benefit under Title 35, United States Codes § 119(e) of the United States provisional application listed below:

Application No.: 60/451587

Filing Date: March 3, 2003

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: **James H. Coombs**

Inventor's signature _____

Date _____

Residence: 175 San Leon Villa, Irvine, CA 92606

Citizenship: U.K.

Mailing Address: Same

Full name of second inventor: **John F. Gordon**

Inventor's signature _____

Date _____

Residence: 20 New Jersey, Irvine, CA 92606

Citizenship: U.K.

Mailing Address: Same

Full name of third inventor: **Brigitte C. Phan**

Inventor's signature _____

Date _____

Residence: 171 Stonecliffe Aisle, Irvine, CA 92612

Citizenship: U.S.A.

Mailing Address: Same

Full name of fourth inventor: **Joseph R. I. Urcia**

Inventor's signature _____

Date _____

Residence: 8511 Marion Avenue, Westminster, CA 92683

Citizenship: U.S.A.

Mailing Address: Same

Send Correspondence To:
KNOBBE, MARTENS, OLSON & BEAR, LLP
Customer No. 20,995



EXHIBIT B

Page 1

Attorney's Docket No. NAGACO.074A

DECLARATION - USA PATENT APPLICATION

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Full name of first inventor: James H. Coombs

Inventor's signature J. CoombsDate 10 AUGUST 2004Residence: ~~175 San Leon Villa, Irvine, CA 92606~~

Citizenship: U.K.

Mailing Address: Same

ROAD
17C NASSIM PARK #01-06
NASSIM PARK
SINGAPORE 258394

je

Full name of second inventor: **John F. Gordon**

Inventor's signature _____

Date _____

Residence: 20 New Jersey, Irvine, CA 92606

Citizenship: U.K.

Mailing Address: Same

Full name of third inventor: **Brigitte C. Phan**

Inventor's signature _____

Date _____

Residence: 171 Stonecliffe Aisle, Irvine, CA 92612

Citizenship: U.S.A.

Mailing Address: Same

Full name of fourth inventor: **Joseph R. I. Urcia**

Inventor's signature _____

Date _____

Residence: 8511 Marion Avenue, Westminster, CA 92683

Citizenship: U.S.A.

Mailing Address: Same

Send Correspondence To:

KNOBBE, MARTENS, OLSON & BEAR, LLP

Customer No. 20,995

**DECLARATION - USA PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, mailing address and citizenship are as stated below next to my name;

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Full name of first inventor: **James H. Coombs**

Inventor's signature _____

Date _____

Residence: 175 San Leon Villa, Irvine, CA 92606

Citizenship: U.K.

Mailing Address: Same

Full name of second inventor: **John F. Gordon**

Inventor's signature _____

Date _____

Residence: 20 New Jersey, Irvine, CA 92606

Citizenship: U.K.

Mailing Address: Same

Full name of third inventor: **Brigitte C. Phan**

Inventor's signature Brigitte C Phan

Date 7 / 19 / 2004

Residence: 171 Stonecliffe Aisle, Irvine, CA 92612

Citizenship: U.S.A.

Mailing Address: Same

Full name of fourth inventor: **Joseph R. I. Urcia**

Inventor's signature _____

Date _____

Residence: 8511 Marion Avenue, Westminster, CA 92683

Citizenship: U.S.A.

Mailing Address: Same

Send Correspondence To:

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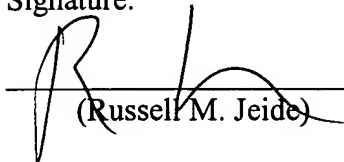
EXHIBIT C

**DECLARATION IN SUPPORT OF REQUEST FOR RECONSIDERATION OF
PETITION UNDER 37 C.P.R. 1.47(A)**

I, Russell M. Jeide, hereby declare that, to the best of my knowledge, information, and belief, the following is true, accurate, and correct:

- 1) I am an associate attorney at Knobbe, Martens, Olson & Bear, LLP ("KMOB") and help coordinate prosecution of patent matters assigned to our client, Nagaoka and Co., LTD ("Nagaoka").
- 2) On March 2, 2004, U.S. Patent Application No. 10/792,291 was filed without an executed oath or declaration.
- 3) On May 25, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the oath or declaration was missing, and requiring a surcharge for its late filing.
- 4) On October 22, 2004, KMOB submitted a petition with an executed Declaration executed by two joint inventors, specifically, James Coombs and Brigitte Phan. The Declaration that was executed by each of Mr. Coombs and Ms. Phan also listed John Gordon and Joseph Urcia as inventors and included a signature block for Messrs. Gordon and Urcia. However, the signature block for Mr. Urcia is on the last page of the Declaration (page 3) and was inadvertently omitted from the Declaration included with the Petition filed on October 22, 2004. Exhibit A of the Request For Reconsideration Of Petition Under 37 C.F.R. 1.47(a) filed herewith is a true and correct copy of the Declaration that was sent to each of the four listed inventors.
- 5) Exhibit B of the Request For Reconsideration Of Petition Under 37 C.F.R. 1.47(a) filed herewith contains complete copies of the declarations that were signed by Brigitte C. Phan and James H. Coombs, each listing Messrs. Urcia and Gordon as inventors.

Signature:


(Russell M. Jeide)

Date:

2-28-05